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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/858,163	05/15/2001	Michael Ehrhart	283-325	3286

7590 05/06/2005
WALL MARJAMA & BILINSKI
101 South Salina Street, Suite 400
Syracuse, NY 13202

EXAMINER

NGUYEN, KIMBERLY D

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/858,163

Applicant(s)

EHRHART, MICHAEL

Examiner

Kimberly D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-26 and 30-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-26 and 30-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/24/05, 6/14/04, 2/02/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Amendment

1. Acknowledgement is made of Amendment filed February 2, 2005.

Claim Objections

2. Claims 33-34 are objected to because of the following informalities:

Claims 33-34 depend on claim 1, which was not-elected/cancelled by the applicant filed October 1, 2004. For examination purposes, the examiner assumes that claims 33-34 depending on independent claim 11.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 11-26 and 30-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilz, Sr. et al. (US 6,283,375; hereinafter "Wilz, Sr.") in view of Tymes et al. (US 5,668,803; hereinafter "Tymes").

Re claims 11, 14, 16, 17, 19-22, 24-26 and 30-32: Wilz, Sr. teaches a portable device (181 in fig. 8A, 131 in fig. 6A) comprising:

an imaging assembly including a two-dimensional solid state image sensor and optics focusing an image onto the image sensor (figs. 6A, 10A-10D; col. 44, lines 4-15; col. 62, line 61 through col. 63, line 18);

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a trigger (the data transmission control switch (145 in fig. 6A; 185B in fig. 8A; col. 4, line 40 through col. 5, line 11; col. 44, lines 40-67; col. 51, lines 5-18));

a portable housing (141 in fig. 6A; 181 in fig. 8A) encapsulating the solid state image sensor;

a control circuit (54 in figs. 2E-2F) configured to operate in a mode in which the control circuit stores an image in response to a user-actuation of the trigger (col. 44, lines 56-67) (col. 23, line 24-31; col. 33, lines 16-37);

wherein the control circuit is further configured to operate in a mode in which the control circuit sends the image (barcode symbol) to a separately housed spaced apart device (remote unit 182 in fig. 8A) (i.e., "Optionally, a laser scanning barcode symbol scanning engine (without a digitizer or decoder) can be contained within hand-mounted unit 181, and the necessary digitizing and scan-data processing can be carried out by the microcomputing system within the remote unit 182 using techniques known in the art..." (col. 51, lines 46-60)); and

However, Wilz, Sr. fails to teach or fairly suggest sending the image to a separate housed spaced apart device together with a set of executable instructions executable by the spaced apart device, the executable instructions instructing the separately housed spaced apart device to (a) decode a bar code symbol represented in the image to generate a decoded-out message; and (b) transmit back to the portable device the decoded-out message.

Tymes teaches a barcode reader (15 in fig. 4) sending an image (barcode symbol 65 in fig. 6) to a separate housed spaced apart device (10, 12, 13, 14 in fig. 4) together with a set of executable instructions executable by the spaced apart device (e.g., the data packet 17 is encoded with a validity check/reformat, for example, each binary "1" becomes "1111111111" and "0"

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becomes "00000000000", wherein the validity check/reformat serves as the executable instruction; col. 15, lines 10-30), the executable instructions instructing the separately housed spaced apart device to (a) decode a bar code symbol represented in the image to generate a decoded-out message ("The base station 12, 13, or 14 receives the RF transmission packet 17 from the remote unit 15, decodes it on the fly..." (col. 15, lines 3-36)); and (b) transmit back to the portable device the decoded-out message ("...then sends a response back to the base station via link 11, which the base station holds in memory 31 for sending to the remote unit 15..." (col. 15, lines 40-45)) (col. 15, lines 10-57; col. 21, lines 2-66).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate sending the image data to a remote device together with executable instructions etc. as taught by Tymes to the teachings of Wilz, Sr. in order to protect the transmitted data from unauthorized personnel during transmissions by sending the encoded data and instructions for decoding the data to the remote device.

Re claims 12-13: Wilz, Sr. teaches the portable device further includes an illumination assembly comprising at least one LED (col. 70, line 38 through col. 71, line 25).

Re claims 15, 35: Wilz, Sr. teaches the portable housing is in the form factor of a cellular telephone (col. 44, lines 1-39).

Re claims 18, 23, 36-43: Wilz, Sr. teaches the image file format may be a PDF file (col. 63, lines 19-41).

Re claims 33-34: Wilz, Sr. teaches the portable device comprising a display (136 in figs. 6A-6B) and a keyboard (touch screen type keypad 137 in figs. 6A-6B) (col. 43, line 60 through col. 44, line 15).

Response to Arguments

5. Applicant's arguments, see pages 9-16, filed February 2, 2005, with respect to the rejection(s) of claim(s) 11-26 and 30-32 under U.S.C. 103 over Wilz, Sr. have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Wilz, Sr. and Tymes.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly D. Nguyen whose telephone number is 571-272-2402. The examiner can normally be reached on Monday-Friday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



KDN
May 2, 2005